

1 TABLE OF AUTHORITIES

2 CONSTITUTIONAL

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| 3 U.S. Const amend VI, Strickland v. Washington, 466 U.S. 688 (1984) | 11. |
| 4 U.S. Const amend VI, Smith v. Robins 528 U.S. 259 (2000) | 14. |
| 5 Due Process XIV, Evittis v. Lucey, 469 U.S. 387, 83 L.Ed 2d 6 821, 105 S.Ct 830 (1985) | 14. |
| 7 Due Process XIV, Locker v. Andrade, (2003) 538 U.S. 63 155 8 L.Ed 2d 144, 123 S.Ct | 15. |
| 9 Due Process XIV, Reed v. Farley, 144 S.Ct 2291,2297 (1994) .. | 15. |
| 10 Due Process XIV, Hill, 368 U.S. at 428 | 15. |
| 11 Due Process XIV, Turner v. Safley, 482 U.S. 78,95, 96 L.Ed 12 2d 64 (1987) | 18. |
| 13 Due Process XIV, Estelle v. McGuire, 502 U.S. 62 (1991) | 19. |
| 14 Due Process XIV, Barley, 473 U.S. at 676, 105 S.Ct at 3380; 15 accord Giglio, 405 U.S. at 154, 92 S.Ct at 766 | 19. |
| 16 Due Process XIV, Napue v. Illinois, 360 U.S. 264,269 79 S.Ct 17 1173,1177, 3 L.Ed 2d. 1217 | 19. |
| 18 Due Process XIV, Holmes v. S.Car., 126 S.Ct 1727 (2006) | 20. |
| 19 Due Process XIV, Estelle v. McGuire, 502 U.S. 62 (1991) | 20. |
| 20 Due Process XIV, Hick v. Oklahoma, 447 U.S. 343,346 (1988) .. | 21. |
| 21 Due Process XIV, Faretta v. California, 422 U.S. 806 (1975).. | 14. |

22 FEDERAL CASE

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| 22 Gete v. Immigration and Natrulization Service, 121 F.3d 1285, 23 1293 (9th Cir.1997) | 15. |
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24 STATUTES

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| 24 Evidence Code Sections 451, 453, 459(a) | 16. |
| 25 Evidence Code, Hickey v. Roby (1969) 273 C.A.2d 752,755, 77 26 C.R.486; 1 Civil Appellate Practitice 3d, 11.87.) | 16. |

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IV

Part #1 of Claim Four:

PETITIONER'S CONVICTION RESULTED FROM STATE COURT ERRORS WHICH, TAKEN TOGETHER, DENIED PETITIONER A FAIR TRIAL.
Estelle v. McGuire, 502 U.S. 62 (1991)

Supporting Facts:

The trial Judge use Exclusionary Rule 352 of the California Evidence Code to "erroneously" exclude Johnathan Woodard, an on duty security guard who witnessed my arrest. His testimony would've drew "critical attention" to the arresting Officer, G. Fogarty's account of my arrest in his Police Report (referred to earlier) and corroborating testimony on the Stand.

The evidence revealed in Dunbar's file need not have been independently admissible to have been material. Evidence is material if it might have been used to impeach a government witness, because "if disclosed and used effectively, it may make the difference between conviction and acquittal". Barley, 473 U.S. at 676, 105 S.Ct at 3380; accord Giglio, 405 U.S. at 154, 92 S.Ct at 766; Napue v. Illinois, 360 U.S. 264, 269, 79 S.Ct 1173, 1177, 3 L.Ed 2d 1217

The victim (Robert Richardson) was interviewed by "2-two" Investigators from the Public Defenders Office (Months apart) and made the following statement: I "did not" see the robber's face and "would not" be able to identify the robber; see [Def Exhibit E] Motion for New Trial (9:11-18). Next, go to page 11:12-27 which depicts the victim's description of his assailant (earlier mentioned), and further makes reference to the Reporter's Transcript (incorporated) of the corroborating testimony he gave of his assailant's description on the Witness Stand.

These "factors" along with Mr. Woodard's testimony would've had a tremendous impact on my trial -- which taken together would've

1 resulted in a different outcome (when you include the evidence men-
2 tioned earlier) to this equation.

3 State rules of evidence were applied in a way which denied
4 Petitioner the right to present a complete defense. Holmes
v. S.Car., 126 S.Ct 1727 (2006).

5 For more insight please see [Def Exhibit E] Motion for New Trial
6 (11:12-27,12,13:1-15). Then go to [Def Exhibit J] Reply Motion to
7 the People's Opposition to Motion for New Trial (8:8-25,9.).

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IV

9 Part #2 of Claim Four:

10 PETITIONER'S CONVICTION RESULTED FROM STATE COURT ERRORS
11 WHICH, TAKEN TOGETHER, DENIED PETITIONER A FAIR TRIAL.
12 Estelle v. McGuire, 502 U.S. 62 (1991)

13 Supporting Facts:

14 The trial court refused to Take Judicial Notice of evidence (co-
15 pies of rent receipts, checks, and foodstamp documents) in the Mot-
16 ion for New Trial [Def Exhibit E] incorporated at "Exhibit H" th-
17 erein; that were "valuable sources of information" crucial in my
18 defense. This "refusal" violated the California Evidence Code (St-
19 atute) that a State Court is bound by; Due Process is violated wh-
20 en a State fails to follow its own establish criminal procedures
21 and violates its own Statutes or Constitution.

22 Please see Motion to Take Judicial Notice of evidenve [Def Exh-
23 ibit L], for details of the importance this information would've
24 made. Next, review the Court's denial at the Hearing [Def Exhibit
25 M] Reporter's transcript. Finally, see Petition for Writ to the
26 California Supreme Court [Def Exhibit N], which bears the "govern-
27 ing Evidence Code Statutes pertaining to Judicial Notice -- the

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